

Response to Restriction Requirement
Serial No. 10/612,642
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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicant: Liu, et al.

Case: 007612 USA/ETCH/SILICON

Serial No.: 10/612,642

Filed: July 1, 2003

Examiner: Walter Lee Lindsay, Jr.

Group Art Unit: 2812

Confirmation No.: 3693

Title: **METHOD FOR FABRICATING AN ULTRA SHALLOW JUNCTION
OF A FIELD EFFECT TRANSISTOR**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

S I R:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action dated August 9, 2004, which imposed a restriction requirement in the above-captioned patent application, the Applicants elect to prosecute with traverse the species 100A. From the species 100A, the Applicants identify independent claim 1 as generic to species 100A-C, and dependent claims 2-8, 13-15 and independent claim 16 as readable upon species 100A. Thus, claims 1-8 and 13-16 are provisionally elected. Claims 9-12 and 17-30 are provisionally withdrawn without prejudice.

The Applicants respectfully submit that the restriction does not conform with MPEP §803 which outlines the criteria for making a proper restriction. Specifically, a restriction is proper when an application contains inventions that are independent or distinct as claimed, and that there must be a serious burden on the Examiner if restriction is required. The Examiner is required to provide reasons and/or examples to support his conclusion. The Examiner may provide a prima facie evidence of a serious burden by showing an appropriate

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explanation either of separate classification, separate status in the art, or a different field of search.

The Applicants respectfully submit that the Examiner has not demonstrated a serious burden in requiring a restriction in the present application. The Examiner has merely identified different species which have a common attribute of being a protective film. The Applicants submit that in the Examiner's search for protective films in general, and oxide protective film in specific, the limitations of SiO₂ and carbon protective films recited in claims to the non-elected species 100B-C present minimal, if any, burden on the Examiner. Since the species 100A-C of the present application are a reasonable number of species and no serious burden is placed on the Examiner, consideration of all claimed embodiments is proper under 37 C.F.R. §1.141 and §1.146.

The species 100B-C generic to independent claim 1. Dependent claims 9-10 and independent claim 17 are readable upon Species 100B. Dependent claims 11-12 and independent claim 18 are readable upon Species 100C.

Thus, the Applicants respectfully request claims 1-18 be considered by the Examiner. Claims 19-30 are withdrawn without prejudice. The Applicants reserve the right to file divisional/continuation applications to prosecute the non-elected subject matter.

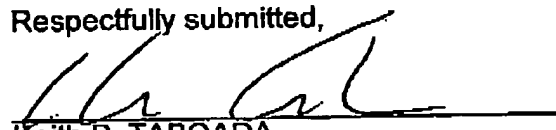
Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited. Although Applicants believe that no fee is due in connection with this response, the Commissioner is authorized to charge counsel's Deposit Account No. 20-0782 for any fees, including extension of time fees or excess claim fees, required to make this response timely and acceptable to the Office. If the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Keith Taboada at (732) 530-9404 so that

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appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Aug 30, 2004


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CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence is being transmitted by facsimile under 37 C.F.R. §1.8 on August 30, 2004 and is addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Facsimile No: (703) 872-9306.


Signature

Allyson M. DeVesty
Printed Name of Person Signing

8-30-04
Date of signature